

204 JUN -6 PM 4:19

Div. No. 18

S

by FDIC on May 23, 2011

7. Counsel filed their entry of appearance on May 24, 2011.

8. On May 25, 2011, Plaintiffs filed their Motion for Default Judgment against Hillcrest, a party that ceased to exist upon the appointment of FDIC as its Receiver.

9. Based on the Appointment of FDIC as Receiver for Hillcrest, it has succeeded to all rights, titles, powers, and privileges of Hillcrest, including the present litigation. 12 U.S.C. § 1821(d)(2)(A)(i).

10. On May 27, 2011, FDIC filed its Motion to Substitute FDIC for Hillcrest which is currently pending before the Court.

11. FDIC as Receiver stands in the shoes of Hillcrest with respect to all matters, including the present litigation, as such, entry of a default judgment against the failed institution for which a receiver has been appointed is inappropriate.

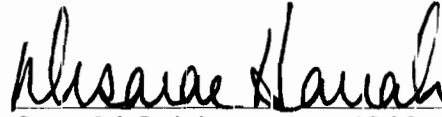
12. Plaintiffs' motion for default fails to allege that it has complied with the mandatory administrative claims process pursuant to 12 U.S.C. § 1821(d)(3)-(13) which would entitle them to pursue a claim against FDIC as Receiver in this action.

13. Until entry of an order substituting FDIC as Receiver for Hillcrest in this action, no answer is currently due and thus entry of a default judgment is unwarranted.

WHEREFORE, for the above and foregoing reasons, the Federal Deposit Insurance Corporation, in its capacity as Receiver for Hillcrest Bank, respectfully requests that the Court deny Plaintiffs' Motion for Default Judgment against Hillcrest Bank. A proposed order is attached for the Court's convenience.

Respectfully submitted,

MARTIN, LEIGH, LAWS & FRITZLEN, P.C.

By: 

Steve M. Leigh MO No. 29268

Robert D. Kroeker MO No. 33282

Desarae G. Harrah MO No. 57969

900 Peck's Plaza

1044 Main St.

Kansas City, Missouri 64105

Telephone: (816)221-1430

Facsimile: (816)221-1044

sml@mllfpc.com; rdk@mllfpc.com

dgh@mllfpc.com

ATTORNEYS FOR FDIC

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was delivered via first class U.S. mail, postage prepaid, this 6th day of June 2011, to:

Linus L. Baker
6732 W. 185th Terr.
Stillwell, Kansas 66085-8922
ATTORNEY FOR PLAINTIFFS

Kelly A. Campbell
1000 Walnut St., Ste. 1400
Kansas City, Missouri 64106
PRIOR ATTORNEY FOR HILLCREST
BANK

Thomas Roy Larson
1010 Walnut, Ste. 500
Kansas City, Missouri 64106
ATTORNEY FOR DEFENDANTS
WHEELER, ASNER, BLITT, CAMPBELL,
FINGERSH, WHITE, DEGEN, GERVY,
RICHARDS, DAVIES, LIEBERMAN, AND
HILLCREST BANCSHARES

Mark S. Carder
1201 Walnut, Ste. 2900
Kansas City, Missouri 64106
ATTORNEY FOR DEFENDANTS FORGEY,
DAVIS, HOLDERMAN,
SCHWARTZKOPF, GALLATIN, AND
SCHNEIDER

Quintero Clubhouse Villas LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

Quintero Clubhouse Suites, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

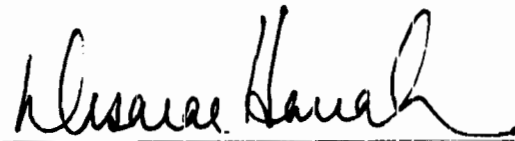
Quintero Capital, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

Quintero Entrada, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

Private Club Financial Management, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

Quintero Charter Properties, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

Crossover Capital, LLC
Gary Ned McClung
8345 NE 83rd
Kansas City, Missouri 64158
DEFENDANT

A handwritten signature in black ink, appearing to read "Lisa Hana", written over a horizontal line.

Attorney